

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

ARNOLD MORGAN, JR.,

Plaintiff,

v.

DIRECTOR OF TDCJ, ET AL.,

Defendants.

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Case No. 6:20-CV-62-JDK-KNM

**ORDER ADOPTING REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Plaintiff Arnold Morgan, Jr., an inmate proceeding *pro se*, filed this civil rights lawsuit pursuant to 42 U.S.C. § 1983. The case was referred to United States Magistrate Judge K. Nicole Mitchell pursuant to 28 U.S.C. § 636. On March 31, 2020, the Magistrate Judge issued a Report and Recommendation (Docket No. 16) recommending that Plaintiff's action be dismissed for failure to state a claim upon which relief may be granted. *Id.* at 11. Plaintiff filed objections on April 22, 2020. Docket No. 18.

The Court overrules Plaintiff's objections. Plaintiff merely restates the allegations in his Amended Complaint. Frivolous, conclusory, or general objections need not be considered by the Court. *See Nettles v. Wainwright*, 677 F.2d 404, 410 n.8 (5th Cir. 1982) (en banc), *overruled on other grounds by Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415 (5th Cir. 1996) (en banc). Further, Plaintiff does not dispute the Magistrate Judge's proper conclusions that (1) Plaintiff could not state a claim upon which relief may be granted for his claims against Defendants in their official capacities for money damages, *see Oliver v. Scott*, 276 F.3d 736, 742 (5th Cir. 2002); (2) Plaintiff failed to show that any Defendant was personally involved in any act or omission that


deprived Plaintiff of his constitutional rights, *see Silva v. Moses*, 542 F. App'x 308, 310–11 (5th Cir. 2013); and (3) Plaintiff's claims about the conditions of his confinement fail to state a claim because Plaintiff failed to allege that he was exposed to "unreasonably high levels of [environmental tobacco smoke]," *see Helling v. McKinney*, 509 U.S. 25, 35 (1993).

Having made a *de novo* review of the objections raised by Plaintiff to the Magistrate Judge's Report, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and Plaintiff's objections are without merit. The Court therefore adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court.

Accordingly, it is hereby **ORDERED** that the Report and Recommendation (Docket No. 16) be **ADOPTED**. It is further

ORDERED that Plaintiff's suit is **DISMISSED WITH PREJUDICE**.

So **ORDERED** and **SIGNED** this **30th** day of **April, 2020**.


JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE